

1900797 (Migration) [2023] AATA 1923 (12 June 2023)

DECISION RECORD

DIVISION:	Migration & Refugee Division
REPRESENTATIVE:	Miss Vivian Wei Wei Wang (MARN: 0853910)
CASE NUMBER:	1900797
MEMBER:	Maxina Martellotta
DATE:	12 June 2023
PLACE OF DECISION:	Perth
DECISION:	The Tribunal remits the applications for Partner (Provisional) (Class UF) visas for reconsideration, with the direction that: • The first named visa applicant meets the following criteria for a Subclass 309 (Partner (Provisional)) visa: ○ cl 309.211(2) of Schedule 2 to the Regulations. ○ cl 309.221 of Schedule 2 to the Regulations.

Statement made on 12 June 2023 at 9:20am

CATCHWORDS

MIGRATION – Partner (Provisional) (Class UF) visa – Subclass 309 (Partner (Provisional)) – genuine and continuing relationship – child born of the relationship – social media and other communication – money transfers – lengthy separation – demonstrated loyalty to their relationship – mutual commitment to a shared life – decision under review remitted

LEGISLATION

Migration Act 1958, ss 65

Migration Regulations 1994, Schedule 2, r 1.15; cls 309.211, 309.221, 309.311. 309.321

CASES

He v MIBP [2017] FCAFC 206

Any references appearing in square brackets indicate that information has been omitted from this decision pursuant to section 378 of the Migration Act 1958 and replaced with generic information.

STATEMENT OF DECISION AND REASONS

APPLICATION FOR REVIEW

1. This is an application for review of a decision made by a delegate of the Minister for Immigration on 28 December 2018 to refuse to grant the visa applicants Partner (Provisional) (Class UF) visas under s 65 of the *Migration Act 1958* (Cth) (the Act).
2. The first named visa applicant [named] applied for the visa on 24 November 2017 based on her relationship with her sponsor, the review applicant [named]. At that time, Class UF contained only one subclass: Subclass 309 (Partner (Provisional)). The criteria for the grant of this visa are set out in Part 309 of Schedule 2 to the *Migration Regulations 1994* (Cth) (the Regulations). The primary criteria must be satisfied by at least one applicant. The other member of the family unit, [named], who is an applicant for the visa, need satisfy only the secondary criteria.
3. The delegate refused to grant the visa on the basis that the visa applicant did not satisfy cl 309.211 and cl 309.221 in Schedule 2 to the Regulations. As a consequence, the secondary applicant did not satisfy cl 209.311 in Schedule 2 to the Regulations.
4. The review applicant appeared before the Tribunal on 4 April 2023 to give evidence and present arguments. The Tribunal also received oral evidence from the visa applicant. The review applicant provided evidence by video as he was located interstate. The visa applicant also provided evidence by video as she was offshore. The Tribunal also considered written submissions, statutory declarations and other documents submitted to the Tribunal by the review applicant and found in the Department file. The review applicant provided the Tribunal with a copy of the delegate's decision. The Tribunal has also considered written submissions provided by the review applicant post hearing. The Tribunal was assisted by an interpreter in the Cantonese language.
5. The review applicant was represented in relation to the review. The representative attended the Tribunal hearing.
6. For the following reasons, the Tribunal has concluded that the matter should be remitted for reconsideration.

CONSIDERATION OF CLAIMS AND EVIDENCE

7. The issue in the present case is whether, at the time of application and at the time of decision, the parties meet the spousal relationship criteria.
8. *Background*
9. The review applicant was born in China in [specified year]. He arrived in Australia in March 2002 and was granted a Protection visa in 2017 and is a permanent resident. The visa applicant was also born in China, in [year]. The review applicant and visa applicant state that they married in November 1997 and that they are the parents of a son born in [year]. Their child is the secondary applicant and resides in China with his mother, the visa applicant.

Whether the parties are in a spouse or de facto relationship

10. Clauses 309.211(2) and 309.221 require that at the time the visa application was made, and at the time of this decision, the visa applicant is the spouse or de facto partner of an

Australian citizen or Australian permanent resident or an eligible New Zealand citizen. In the present case, the visa applicant claims to be the spouse of the review applicant who is an Australian permanent resident.

11. 'Spouse' is defined in s 5F of the Act and provides that a person is the spouse of another where the two persons are in a married relationship. Persons in a married relationship must be married to each other under a marriage that is valid for the purposes of the Act, there must be a mutual commitment to a shared life as a married couple to the exclusion of all others, the relationship must be genuine and continuing, and the couple must live together, or not live separately and apart on a permanent basis: s 5F(2)(a)-(d). In forming an opinion about these matters, regard must be had to all of the circumstances of the relationship. This includes evidence of the financial and social aspects and the nature of the visa applicant's and review applicant's household and their commitment to each other, as set out in reg 1.15A(3), which is extracted in the attachment to this decision. Each of the specific matters contained in reg 1.15A(3) are effectively questions which must be answered: *He v MIBP* [2017] FCAFC 206.

Are the parties validly married?

12. If the parties are validly married, they may meet the requirements of a married relationship, but not a de facto relationship.
13. The review applicant and visa applicant state that they were married in November 1997. A notarised translation of their marriage certificate dated [in] May 2017 was included in the Department file.
14. On the evidence, the Tribunal is satisfied that the parties are married to each other under a marriage that is valid for the purposes of the Act as required by s 5F(2)(a).

Are the other requirements for a spouse relationship met?

15. Financial aspects of the relationship

16. The Tribunal has had regard to the evidence provided relating to the financial aspects of the relationship, including:
 - joint ownership of real estate or other major assets and any joint liabilities;
 - the extent of any pooling of financial resources, especially in relation to major financial commitments;
 - whether one person in the relationship owes any legal obligation in respect of the other; and
 - the basis of any sharing of the day-to-day household expenses.

17. The review applicant and the visa applicant provided the following evidence.

18. Joint ownership of real estate or other major assets and joint liabilities

19. The parties do not and have not owned any major joint assets in China or Australia. The visa applicant and son were living with the review applicant's mother. She has since passed away, but they continue to reside in that property.
20. They have not and do not share any joint liabilities.

21. Pooling of financial resources and liabilities

22. Prior to leaving China, the review applicant stated that they were both working; however, they did not and do not have a joint bank account, the evidence being that it is not common practice to hold joint accounts in China. However, they were each contributing to the costs of their household.
23. The review applicant told the Tribunal that when he left China, he left some money with his wife to meet her and their son's costs. When he first came to Australia, he was unable to send much money back to China because of the limitations that he faced in finding employment. He was trying to earn enough to meet his own expenses. He was working casual jobs and did not have any consistent source of income that he could share. He also had expenses associated with his own visa application. When he could, he arranged for friends to take back money to give to his wife; this happened twice. Since 2019 he has regularly sent money back to his wife to cover her and their son's costs. Since getting his protection visa and permanent residency, he has been able to send money on a more regular basis.
24. The visa applicant stated that she worked in a factory to support herself and has over time saved some money to meet living expenses. Her husband would sometimes send over funds as well to cover her costs of living.
25. The review applicant and visa applicant stated that they each hold individual savings. The review applicant stated that he has savings of about AU\$32,000 in Australia and the visa applicant has savings of about the equivalent of AU\$34,000 in China.

26. Whether one person in the relationship owes any legal obligation in respect of the other

27. Apart from their marriage, neither person owes any legal obligation to the other.

28. Any sharing of the day-to-day household expenses

29. The parties generally each meet their day-to-day expenses from their own financial resources. However, as noted, the review applicant stated that he has also contributed to his wife's and son's living expenses as detailed above.
30. In addition to the oral evidence provided at hearing, the Tribunal noted the following documents and materials:
 - a) copies of receipts showing money transfers which have been made between 2019 to 2022 for the purpose of school meals, accommodation and education costs (these were translated). Some of these transfers show yearly transfers since 2019 for amounts of about AU\$7,000 per transaction described as for living expenses;
 - b) copies of consignment notes showing the review applicant sending various items to the visa applicant such as milk powder, supplements and lotions.

31. Nature of the household

32. The Tribunal has had regard to the evidence as to the nature of the household including joint responsibility for the care and support of children, the parties' living arrangements, and any sharing of the responsibility for housework.

33. *Joint responsibility for the care and support of children*

34. The review applicant and visa applicant have a son who is now [age] years of age. They stated that their son is studying at university. The review applicant gave evidence that when he left China his son was still very young. He has maintained regular contact with his son through video chats and telephone calls. He sent money back to China to contribute to their son's costs of living. The visa applicant confirmed that the review applicant has contributed towards the financial costs for their son as and when he has been able to do so.
35. Their evidence is that their plan is to reunite as a couple and as a family and to ensure that their son continues his studies.

36. *Living arrangements and housework*

37. The review applicant and visa applicant have lived separately since 2002. Prior to this, they lived with his mother in her home.
38. Since leaving China the review applicant has either rented in share homes or lived in rentals on his own.
39. The review applicant and visa applicant stated that should the visa be granted; their plan is that they would find a rental property that is big enough for them all to live together in.

40. *Social aspects of the relationship*

41. The Tribunal has had regard to the evidence provided, namely, whether the parties represented themselves to others as being married to each other, the opinion of their friends and acquaintances about the nature of the relationship, and any basis on which the parties plan and undertake joint social activities.

42. *Representation to others and opinions of their friends and acquaintances about the nature of the relationship*

43. The review applicant and visa applicant gave evidence that their family members acknowledge their marriage and continue to do so despite their physical separation. They each stated that despite being separated, the review applicant has maintained his relationship with the visa applicant's parents. On special occasions he will send her family his best wishes.
44. Until her passing, the visa applicant and their son lived with her mother-in-law (the review applicant's mother). Every Chinese New Year the visa applicant said that her husband sends money to her parents and occasionally she joins her husband's relatives for social gatherings. She said that her husband often calls and sends greetings to her parents.
45. The review applicant stated that he always describes himself as married when completing government forms; he states that he has friends in Australia who know about his wife, and he relies upon statutory declarations provided by those persons.
46. The Tribunal noted statutory declarations and statements provided by family members and acquaintances in China and Australia attested to the genuine nature of the relationship between the review applicant and visa applicant. These stated the opinion that the review applicant and visa applicant presented as a couple who are in a genuine and committed relationship. The statements also described the impact that the years of separation has had on the family.

47. *Any basis on which the parties plan and undertake joint social activities*

48. The review applicant and visa applicant provided oral evidence that they have maintained regular daily contact through various social media platforms. The review applicant stated that he contacts his wife and son on a daily basis, and he sends gifts and calls on special occasions such as birthdays or special holidays.
49. The visa applicant stated that she and the review applicant have contact at least twice a day. They engage in small talk, discuss their daily lives and their son's education, and they talk about the house and family.
50. The Tribunal noted that there are extensive records showing regular telephone and WeChat contacts between the review applicant, visa applicant and their son. The bulk of these records reflect contact from 2017 to March 2023. At hearing the review applicant was able to confirm the phone numbers as those belonging, to his son, wife and the landline. Also included in the materials were screenshots showing the review applicant, visa applicant and their son during video chats.
51. Also included in the Department file were photographs which are said to show the review applicant, the visa applicant their son and family members prior to the review applicant leaving China.

52. *Nature of the persons' commitment to each other*

53. *Duration of the relationship and length of time they have lived together*

54. The Tribunal has had regard to the evidence provided in relation to the nature of the parties' commitment to one another, including the duration of the relationship, the length of time they have lived together, the degree of companionship and emotional support they draw from each other, and whether they see the relationship as long-term.
55. The review applicant provided the following evidence:
 - a) He and his wife first met through a friend in 1996. They married in 1997 and the wedding was attended by family members from both sides. Their son was born in [year].
 - b) He left his family in China in March 2002 and travelled to Australia. This was the last time he personally saw his wife and son. At that time his son was about [age] years old. He arrived in Australia on a visitor visa.
 - c) He left China for freedom and because he was *running for his life*. His wife and child could not travel with him because, at the time, the agent dealing with his visitor visa application told him that they could only arrange travel for one individual and not the family and he had no choice. He did not know the reason for that advice.
 - d) When he left China, he told his wife that he would be in trouble if he did not leave. He was concerned about the safety of his wife and child, so he did not *officially* tell her of his plans. By this he meant that he told her that he wanted to go to Australia to see *how things go and once he knew the situation, he would let her know*. His wife told him that whatever he decided, he would have her full support.
 - e) Once he arrived in Australia, it took a very long time for him to get to the point where he could arrange for his family to join him. He had issues because he overstayed his

initial visa and then there were complicated processes before he was ultimately granted a protection visa in 2017.

- f) Despite these challenges he has continued to work towards the goal of reuniting with his wife and son.
- g) He has not been able to travel back to China since 2002. This was due to a number of reasons. There were travel restrictions associated with his protection visa application and in any event, it was not safe for him to return to China.
- h) Once he was granted his protection visa, he applied for his wife's partner visa in November 2017. They spoke about trying to meet in a third country, however, he did not have the finances to undertake the trip and he had spent money on applying for his wife's partner visa so it was not financially viable.
- i) His wife and son have not travelled to Australia to spend time with him since he left China because there were complications with his visa. He was worried that any visitor visa application made by his wife and son would add to those complications. In addition, the cost was an issue. He and his wife decided to instead focus on applying for the partner visa. There were also travel restrictions as a result of COVID-19.

56. The visa applicant told the Tribunal:

- a) She understood that her husband wanted to travel to Australia because he had his own beliefs and wanted freedom. Her husband did not specifically tell her that he was not intending to return. At the time she and her husband had talked about travelling together with their son but were told by an agent that only her husband could get the visa to travel.
- b) Subsequently they have not travelled to visit her husband because of the cost and the visa processes that he was subject to, which took a long time. Her husband told her that there were issues related to his own visa appeal and that the cost of the appeal and other expenses would prevent them from travelling to meet sooner.
- c) She agrees that the separation is not usual but at the end of the day as a couple they wanted to save money for their plan to reunite as a family. They talked about the possibility of meeting in Malaysia, but this did not happen because, if the partner visa application succeeded, they needed the money for their future.
- d) Their 'very best dream' is to meet each other but they did not have a lot of money; *they have to be patient and suffer and endure for this period* so that they have sufficient funds to buy a home and support their son's education.

57. *Emotional support they draw from each other*

58. The review applicant and visa applicant both stated that neither of them has had any other relationships.

59. The review applicant and visa applicant stated that they hope and plan to reunite as a family. They want their son to continue his studies in the future. The review applicant stated that this is about the marriage and the family. If he is not successful, he will continue to appeal because after separation for so many years he wants a family reunion.

60. The visa applicant stated that she and her husband have discussed their plans. Her husband has worked so hard and had a difficult life. He has [a medical condition] and related health

issues. After so many years, if the visa is granted, she and her husband can reunite and share some of their burdens and difficulties.

61. The visa applicant stated that she and her husband share their son's interests. Apart from their son, the thing that they have in common, after being separated for so long, is to be able 'to share and talk from the bottom of our hearts face to face'.
62. In addition to the oral evidence at hearing, the review applicant's representative, Miss Wang, made the following submissions:
 - a) The period of separation between the review applicant and visa applicant needs to be understood in the context of the review applicant's complicated visa history.
 - b) According to the Department file, the review applicant had a poor immigration history until the grant of his protection visa. He came to Australia as a visitor, in 2002; however he was not compliant with his visa. He applied for and was granted a protection visa in 2017. This history explains why it was not feasible for him to try to get his wife and son to Australia sooner.
 - c) As soon as the review applicant was granted permanent residency in 2017, he sponsored his wife's partner visa to bring his wife and son to Australia. He has not delayed seeking to bring about their reunion.
 - d) As a couple, the review applicant and visa applicant have prioritised the partner visa rather than spend resources on seeking a short-term visa. Whilst they discussed meeting in a third country, given the circumstances relating to the protection visa and their finances, this was not a viable plan.
 - e) The review applicant and visa applicant have demonstrated their loyalty to their relationship. As soon as they could, the review applicant and visa applicant applied for the partner visa. They have remained committed, as demonstrated by the application for review.
 - f) The video and WeChat records as well as evidence of the regular financial support provided demonstrates their regular contact and commitment to the relationship.

63. TRIBUNAL FINDINGS

64. In this matter, the Tribunal makes the following findings of fact.

65. *Financial aspects of the relationship*

66. The review applicant and visa applicant:
 - a) At the time of application and at the time of decision do not jointly own any real estate or other significant assets. They do not service any joint liabilities, and they maintain separate bank accounts.
 - b) The review applicant, since 2019, has regularly sent an annual amount of about AU\$7,000 to the visa applicant for the purpose of her and their son's living expenses.
 - c) The review applicant, since 2019, has sent various items to the visa applicant such as supplements, milk powder and lotions.

- d) Between 2019 and 2022, the review applicant has transferred smaller amounts of money to contribute towards his son's education and living expenses.

67. *Nature of the household*

- 68. The review applicant and visa applicant, at the time of application and at the time of decision:
 - a) Have not lived together since the review applicant left China in 2002. They have maintained separate households since that time, with the visa applicant residing in the review applicant's mother's home, and the review applicant living in various shared households as a renter.
 - b) Have stated that it is their intention to live together and maintain a household as a family unit with their son should the visa be granted.

69. *Social aspects of the relationship*

- 70. The review applicant and visa applicant have represented themselves as spouses to family, friends and third parties.
- 71. Family and friends have expressed the opinion that the visa applicant and review applicant are in a genuine spousal relationship.
- 72. The review applicant and visa applicant have not physically socialised since the review applicant left China in 2002.
- 73. The review applicant and visa applicant, at the date of application and date of decision, have maintained regular contact and communication via telephone, video calls and WeChat contacts.

74. *The nature of their commitment to each other*

- 75. The review applicant and visa applicant met in person in 1996. They married in 1997. Their son was born in [year]. They are still married.
- 76. The review applicant left China and travelled to Australia in 2002. Since then, they have not physically reunited. They have maintained regular contact by text messages, telephone and video calls. The review applicant and visa applicant regularly discuss a range of topics including family events, their son, personal circumstances and plans to reunite the family.
- 77. The review applicant was granted a protection visa in 2017 and upon becoming a permanent resident applied for his wife and son to join him in Australia.
- 78. The review applicant and visa applicant have prioritised their finances to focus on securing a partner visa and reuniting the family over a short-term visitor visa or trying to meet in a third country.

79. *Other findings of fact*

- 80. The review applicant and visa applicant are not related by family and are both over the age of 18 years.
- 81. The task for the Tribunal is to consider all relevant circumstances and evidence of the relationship in determining whether, on balance, the requirements that define a genuine and continuing relationship and a mutual commitment to a shared life to the exclusion of all

others are met, where the parties are living together or not separately and apart on a permanent basis. In this regard, the Tribunal must also consider relevant evidence of events that have occurred after the date of application. Such evidence is relevant if it tends to logically show the existence or non-existence of factors relevant to the determination.

82. The facts of this case are unusual in that the review applicant and visa applicant have been physically separated since 2002. This means that there is limited evidence regarding some of the factors relevant to the issue to be determined. In essence, the review applicant and visa applicant have not shared a home, lived together or personally socialised since the review applicant left China in 2002.
83. There is, however, evidence demonstrating the existence of other factors such as the financial arrangements, the recognition and acknowledgement of their relationship as well as the nature of their commitment. In this regard, the Tribunal notes the following aspects which it assesses as compelling:
- a) To the extent that has been possible, the review applicant has been contributing to the household costs of his wife and their son. He has also made specific contributions towards his son's education costs. The regularity and quantum of these contributions have increased over the years, particularly from 2019.
 - b) There has been a continuing connection and regular contact between the review applicant and visa applicant as well as their son. There is evidence of significant contact despite the period of physical absence.
 - c) The Tribunal accepts as plausible the explanation as to why it has not been possible for the review applicant and visa applicant to have physically reunited, albeit on a temporary basis, either in Australia, China or a third country.
 - d) The Tribunal notes that as soon as the review applicant was granted his protection visa and became a permanent resident, he activated the process to have his wife and son join him. The Tribunal accepts as plausible the explanation that due to limited financial resources they have chosen to prioritise this over a short-term visit.
 - e) The review applicant and visa applicant, despite the passing of time, are still married. Neither has sought divorce.
 - f) The Tribunal is satisfied that the review applicant and visa applicant continue to represent themselves as spouses and that they continue to be recognised as such by family and friends.
 - g) Despite the years of physical separation, the Tribunal is convinced by the evidence that the review applicant and visa applicant have shared a common goal of reuniting. They have continued to work together, each making sacrifices to secure that goal for themselves and for their son.
84. Having had the opportunity of observing and testing the review applicant's and visa applicant's evidence at hearing and taking into account the materials and documents before the Tribunal, as well as its findings of fact, the Tribunal is satisfied that the evidence supports the conclusion that the review applicant and the visa applicant have a mutual commitment to a shared life to the exclusion of all others and that it is a genuine and continuing relationship.
85. The Tribunal is also satisfied that, since their marriage, the review applicant and visa applicant have lived together and not separately or apart on a permanent basis. In reaching this conclusion, the Tribunal notes that the parties have obviously not been able to reside in

the same country for many years; however, the Tribunal is satisfied that the evidence supports a conclusion that this separation was never intended to be a permanent arrangement and there is evidence that the review applicant and visa applicant have sought to address their physical separation as soon as it was possible to do so.

86. For these reasons, the Tribunal is satisfied and finds that:

- a) The review applicant and the visa applicant have a mutual commitment to a shared life to the exclusion of all others, the relationship is genuine and continuing, the couple live together, or do not live separately and apart on a permanent basis, and the couple are not related by family.
- b) At the time of the visa application, the review applicant, who is an Australian permanent resident, was the spouse of the visa applicant.
- c) At the time of decision, the review applicant and the visa applicant continue to meet the definition of 'spouse'.

87. On the basis of the above, the Tribunal is satisfied that the requirements of s 5F are met at the time the visa application was made and at the time of this decision.

88. Therefore, the visa applicant meets cl 309.211(2) and cl 309.221.

89. The secondary applicant

90. The secondary criteria are set out in Division 309.3 of Schedule 2 to the Regulations. According to the delegate's decision, the second named applicant's application was refused on the basis that the visa applicant (the primary applicant) did not meet the primary criteria.
91. The Tribunal is satisfied that the primary applicant meets the primary criteria and has directed that the application to be remitted to the Minister to consider the remaining criteria for a Subclass 309 visa.¹ It is appropriate therefore that the visa application for the secondary applicant also be remitted for consideration on the basis of the direction given for the primary application.²

DECISION

92. The Tribunal remits the applications for Partner (Provisional) (Class UF) visas for reconsideration, with the direction that:

- The first named visa applicant meets the following criteria for a Subclass 309 (Partner (Provisional)) visa:
 - cl 309.211(2) of Schedule 2 to the Regulations;
 - cl 309.221 of Schedule 2 to the Regulations;

Maxina Martellotta
Member

¹Clause 309.321(a) requires the primary visa applicant to be the holder of the subclass 309 visa, and they will only hold the visa if on remittal the Department chooses to grant it.

²The Tribunal has expressly set out its reasoning given the Tribunal has no power to remit a matter generally without direction.

ATTACHMENT - Extract from *Migration Regulations 1994* (Cth)

1.15A Spouse

- (1) For subsection 5F (3) of the Act, this regulation sets out arrangements for the purpose of determining whether 1 or more of the conditions in paragraphs 5F (2) (a), (b), (c) and (d) of the Act exist.
- (2) If the Minister is considering an application for:
 - (a) a Partner (Migrant) (Class BC) visa; or
 - (b) a Partner (Provisional) (Class UF) visa; or
 - (c) a Partner (Residence) (Class BS) visa; or
 - (d) a Partner (Temporary) (Class UK) visa;the Minister must consider all of the circumstances of the relationship, including the matters set out in subregulation (3).
- (3) The matters for subregulation (2) are:
 - (a) the financial aspects of the relationship, including:
 - (i) any joint ownership of real estate or other major assets; and
 - (ii) any joint liabilities; and
 - (iii) the extent of any pooling of financial resources, especially in relation to major financial commitments; and
 - (iv) whether one person in the relationship owes any legal obligation in respect of the other; and
 - (v) the basis of any sharing of day-to-day household expenses; and
 - (b) the nature of the household, including:
 - (i) any joint responsibility for the care and support of children; and
 - (ii) the living arrangements of the persons; and
 - (iii) any sharing of the responsibility for housework; and
 - (c) the social aspects of the relationship, including:
 - (i) whether the persons represent themselves to other people as being married to each other; and
 - (ii) the opinion of the persons' friends and acquaintances about the nature of the relationship; and
 - (iii) any basis on which the persons plan and undertake joint social activities; and
 - (d) the nature of the persons' commitment to each other, including:
 - (i) the duration of the relationship; and
 - (ii) the length of time during which the persons have lived together; and
 - (iii) the degree of companionship and emotional support that the persons draw from each other; and
 - (iv) whether the persons see the relationship as a long-term one.
- (4) If the Minister is considering an application for a visa of a class other than a class mentioned in subregulation (2), the Minister may consider any of the circumstances mentioned in subregulation (3).